

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1001 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NITINBHAI R SHAH

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR SV RAJU for Petitioner

MR NN PANDYA for Respondent No.1 & 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/07/96

ORAL JUDGMENT

Heard learned counsel for the parties. Challenge has been made by the petitioner against the action of the respondent for recovery of road tax in respect to vehicle No.GTD-6269. The learned counsel for the petitioner made twofold submissions. Firstly, the counsel for the petitioner contended that the vehicle was registered in the name of father of the petitioner, who died long back and as such, notices given to a dead person is of no

avail to the respondents and they could not have proceeded to recover the said amount on the basis of such notices. I do not find any substance in this contention because the petitioner, being a son of registered owner has a duty to discharge the liability of his father. Other contention that the notices were issued to dead person is of no significance when the petitioner does not dispute his position as a son of deceased registered owner of the aforesaid vehicle. The next contention of the learned counsel for the petitioner is that the vehicle No.GTD-6269 has been transferred long back to one Umedram Savalji. This vehicle is stated to be transferred on 3.7.67. It is not disputed by the learned counsel for the petitioner that this alleged transfer of vehicle to Shri Umedram Savalji by his father was not sanctioned by the Transport authorities. In the registration of vehicle, name of transferee has not been registered, which position is also not in dispute. Unless transfer is effected with the sanction of the concerned authority and in the registration of vehicles, his name has been entered as a registered owner, the petitioner could not have been justified to say that this liability cannot be fastened. It is the registered owner who is first liable for payment of dues of taxes of the said vehicle and only in case where vehicle has been transferred by change of necessary correction in the registration certificate of the transferee, it can only be said that he is not liable from the date of transfer of vehicle and that is not the position here. The counsel for the petitioner, relying on Section 8 of the Bombay Motor Vehicles Taxation Act, contended that the possession was also delivered to the transferee and as such, it is his liability to pay the tax. This contention of the counsel for the petitioners stands replied by Sub Section 2 of Section 8 of the said Act. In the result, this Special Civil Application fails and the same is dismissed with costs of Rs.500/-.

2. The recovery of amount of tax has been stayed by the Court and it remains under stay for all these years. The respondents could not recover the aforesaid amount for all these years because of interim relief granted by this Court, which would have resulted in loss to the respondents by way of loss of interest atleast. That loss has to be compensated by this Court to the respondents. It is hereby ordered that the respondents shall be entitled to recover interest on this amount at the rate of 12% p.a. from 14th March, 1984 till the date of payment of said amount by the petitioner. Rule is discharged. Ad-interim relief granted by this Court stands vacated.

(S.K.KESHOTE,J)

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(sunil)